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10/815,133	03/31/2004	Bo Xia	1000-0037	9199
7590 04/03/2008 The Law Offices of John C. Scott, LLC c/o PortfolioIP P.O. Box 52050 Minneapolis, MN 55402			EXAMINER TORRES, JOSEPH D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/815,133

## Applicant(s)

XIA ET AL.

## Examiner

Joseph D. Torres

## Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 10-16, 18, 20, 21 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 10-16, 18, 20, 21 and 30-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/04/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 02/04/2008 have been fully considered but they are not persuasive.

The Applicant contends, "In the claim objection, the Examiner refers to 37 CFR 1.75 to support his assertion that there is no antecedent basis for the phrase "Appendix A" within the claim itself. The Examiner takes the position that 37 CFR 1.75 states that "a claim may not contain any other parts of the application or other material." The Applicants respectfully disagree. In 37 CFR 1.75(h), it states that, "The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material." (Emphasis added) That is, a sheet containing a claim or a portion of a claim may not also contain, for example, the Abstract section of the application, the Background section of the application, etc".

The Examiner would like to point out that claim 1 is supposedly and "independent claim" since it does not refer back to any other claim. The term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends from other materials.

The Applicant contends, "Furthermore, the language of the claims is clear. For example, claim 1 recites "a computer readable storage medium storing at least a first portion of a parity check matrix, wherein said parity check matrix is substantially as described in Appendix A and said first portion includes at least half of said parity check matrix."".

The Examiner disagrees and asserts that claims 1, 15 and 30 are indefinite since it is not clear whether the Applicant intends them to be independent claims or dependant claims. Note: A claim can hardly be considered independent if it depends form other materials.

The Applicant contends, "With regard to 35 USC 112, second paragraph, MPEP 2173 states "The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." (Emphasis added.) MPEP 2173.01 states that "Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought."".

Claims 1-4, 6, 10-16, 18, 20, 21 and 30-32 are indefinite not only because claims 1, 15 and 30 fail to satisfy the definition of either an independent claim or dependant claim, but because it is not clear what portion of the Appendix applies the portion of a parity check matrix that is claimed in claims 1, 15 and 30.

The Applicant contends, "The Examiner further takes the position that Appendix A does not teach a matrix but a list file form of a matrix and, therefore, it is not clear what the Applicant is trying to claim. This is not true. The list file format is simply one method for describing a matrix".

The Applicant admits that the Appendix A is a list file representation of a matrix and not the matrix itself. That one of ordinary skill in the art would know how to reproduce the matrix from the list file is not at issue. **The fact is the Appendix is a list file representation of a matrix and to call it the matrix is simply incorrect.**

The Applicant contends, "The Examiner takes the position that no patentable weight can be given to the recitation of "Appendix A" in the independent claims of the present application for substantially the same reasons given to support the objection to these claims described above. As set out in detail above, none of the arguments provided by the Examiner have any validity. As such, the Examiner has not cited a single rule, law, or case to support the position that reference to an Appendix within a claim is indefinite or entitled to no patentable weight".

The Examiner disagrees and asserts **the term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends form other materials.** MPEP 608.01(m) states "Reference characters corresponding to elements recited in **the detailed description** and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims.



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rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim. The Examiner asserts that a data structure cannot be used to distinguish an apparatus.

The Examiner disagrees with the applicant. All amendments and arguments by the applicant have been considered. It is the Examiner's conclusion that claims 1-4, 6, 10-16, 18, 20, 21 and 30-38 are not patentably distinct or non-obvious over the prior art of record in view of the references as applied in the last office action, filed 10/01/2007. Therefore, the rejection is maintained.

### ***Claim Objections***

Claims 1-4, 6, 10-16, 18, 20, 21 and 30-32 are objected to because of the following informalities: claims 1, 15, and 30 refer to elements, such as Appendix A, not having antecedent basis in the claims as pointed out in the last Office Action. 37 CFR 1.75 states "a claim may not contain any other parts of the application or other material".

**The term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends form other materials.** MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed

description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. The use of reference characters is to be considered as having no effect on the scope of the claims".

Furthermore since claims 1, 15, and 30 are dependant, claims 2-4, 6, 10-14, 16, 18, 20, 21 and 31-32 fail to depend from an independent claim.

The term "Appendix A" should be removed from the claim since if it is included in parenthesis it will be "considered as having no effect on the scope of the claims" and will not be given patentable weight. In addition, simply placing Appendix A in parenthesis would lead to indefinite grammatical structure.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6, 10-16, 18, 20, 21 and 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1, 15 and 30 are indefinite since it is not clear whether the Applicant intends them to be independent claims or dependant claims. Note: A claim can hardly be considered independent if it depends from other materials.**



Claims 1 and 30 recite, "a computer readable storage medium storing at least a first portion of a parity check matrix, wherein said parity check matrix is substantially as described in Appendix A and said first portion includes at least half of said parity check matrix", which is indefinite since as pointed out in the previous Office Action, there is no antecedent basis in the claims for "Appendix A". 37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". **The term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends from other materials.** MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. **The use of reference characters is to be considered as having no effect on the scope of the claims**". That is, no patentable weight can be given to references corresponding to elements recited in the detailed description and the drawings. Hence simple recitation of Appendix A cannot provide antecedent basis for the material from Appendix A that the Applicant is attempting to claim. As such claims 1 and 30 remain indefinite. Furthermore, Appendix A does not teach a matrix but a list form of a matrix; hence it is not clear what the Applicant is attempting to claim. Furthermore Appendix does not provide any description; hence "as described in Appendix A" is not clear what

is being stored. **The fact is the Appendix is a list file representation of a matrix and to call it the matrix is simply incorrect.**

Claim 15 recites, "accessing a computer readable storage medium storing a representation of at least a first portion of a parity check matrix, wherein said parity check matrix is substantially as described in Appendix A and said first portion includes at least half of said parity check matrix", which is indefinite since as pointed out in the previous Office Action, there is no antecedent basis in the claims for "Appendix A". 37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". **The term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends form other materials.** MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. **The use of reference characters is to be considered as having no effect on the scope of the claims**". That is, no patentable weight can be given to references corresponding to elements recited in the detailed description and the drawings. Hence simple recitation of Appendix A cannot provide antecedent basis for the material from Appendix A that the Applicant is attempting to claim. As such claims 1 and 30 remain indefinite.

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Furthermore, Appendix A does not teach a matrix but a list form of a matrix; hence it is not clear what the Applicant is attempting to claim. Furthermore Appendix does not provide any description; hence "as described in Appendix A" is not clear what is being stored. **The fact is the Appendix is a list file representation of a matrix and to call it the matrix is simply incorrect.**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1, 2, 4, 6, 10, 15, 16, 18, 20 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (Michael Yang, Yan Li and William E. Ryan; Design of Efficiently Encodable Moderate-Length High-Rate Irregular LDPC Codes; Proceedings of the Annual Conference on Communication, Control and Computing, October 2, 2002, pages 1415-1424) [hereafter referred to as Yang] in view of Lu et al.

(Ben Lu, Xiaodong Wang, and Krishna R. Narayanan; LDPC-Based Space-Time Coded OFDM Systems Over Correlated Fading Channels: Performance Analysis and Receiver Design; IEEE TRANSACTIONS ON COMMUNICATIONS, VOL. 50, NO. 1, JANUARY 2002, pages 74-88) [hereafter referred to as Lu].

35 U.S.C. 103(a) rejection of claims 1 and 34.

Yang teaches a forward error correction FEC coder to encode digital data using a low density parity check LDPC code (Figure 1(a) on page 1420 in Yang), said FEC coder including: a matrix multiplication unit to multiply input data by a transpose of a first portion of a parity check matrix to generate modified data ( $H_1^T$  block in Figure 1(a) on page 1420 in Yang and Equation 4 on page 1418 of Yang); a differential encoder to differentially encode said modified data to generate coded data ( $\frac{1}{1 \oplus D}$  block on page 1420 of Yang; also see last two paragraphs on page 1419 of yang); and a concatenation unit to concatenate the input data and the coded data to form a code word (Figure 1(a) on page 1420 in Yang teaches that a codeword  $c$  is comprised of the input bits concatenated with the parity bits, which clearly suggests a concatenation unit). However Yang does not explicitly teach the specific use of a wireless transmitter to transmit a wireless signal that includes said code word.

Lu, in an analogous art, teaches use of a wireless transmitter to transmit a wireless signal that includes said code word (Abstract in Lu). Lu teaches that use of LDPC coding for wireless OFDM systems can significantly improve system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu). The Top

of column 2 on page 74 in Lu teaches that antenna array spatial diversity and channel coding can provide significant capacity gains in wireless communications.

37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. The use of reference characters is to be considered as having no effect on the scope of the claims". That is, no patentable weight can be given to references corresponding to elements recited in the detailed description and the drawings. Hence simple recitation of Appendix A cannot provide antecedent basis for the material from Appendix A that the Applicant is attempting to claim. As such claims 1 and 34 remain indefinite. Furthermore, Appendix A does not teach a matrix but a list form of a matrix; hence it is not clear what the Applicant is attempting to claim. Furthermore Appendix does not provide any description; hence "as described in Appendix A" is not clear what is being stored. Furthermore; While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing

**the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim. The Examiner asserts that a data structure cannot be used to distinguish an apparatus.**

Section 4.1 on page 1418 of Yang teaches that the parity matrix H can be generated using compute code, a coded listing. Such a listing clearly suggest computer readable media for buffering and/or storing. As per the material in Appendix A, no patentable weight is given to the term Appendix A.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang with the teachings of Lu by including use of a wireless transmitter to transmit a wireless signal that includes said code word. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of a wireless transmitter to transmit a wireless signal that includes said code word would have provided improved system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu) and significant capacity gains from antenna array spatial diversity and channel coding (Top of column 2 on page 74 in Lu).

35 U.S.C. 103(a) rejection of claim 15.

Yang teaches a forward error correction FEC coder to encode digital data using a low density parity check LDPC code (Figure 1(a) on page 1420 in Yang), said FEC coder including: a matrix multiplication unit to multiply input data by a transpose of a first portion of a parity check matrix to generate modified data ( $H_1^T$  block in Figure 1(a) on

page 1420 in Yang and Equation 4 on page 1418 of Yang)); a differential encoder to differentially encode said modified data to generate coded data ( $\frac{1}{1 \oplus D}$  block on page 1420 of Yang; also see last two paragraphs on page 1419 of yang); and a concatenation unit to concatenate the input data and the coded data to form a code word (Figure 1(a) on page 1420 in Yang teaches that a codeword c is comprised of the input bits concatenated with the parity bits, which clearly suggests a concatenation unit). However Yang does not explicitly teach the specific use of a wireless transmitter to transmit a wireless signal that includes said code word.

Lu, in an analogous art, teaches use of a wireless transmitter to transmit a wireless signal that includes said code word (Abstract in Lu). Lu teaches that use of LDPC coding for wireless OFDM systems can significantly improve system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu). The Top of column 2 on page 74 in Lu teaches that antenna array spatial diversity and channel coding can provide significant capacity gains in wireless communications.

37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. **The use of reference characters is to be considered as having no effect on the scope of the claims**". That is, no patentable weight can be given to references corresponding

to elements recited in the detailed description and the drawings. Hence simple recitation of Appendix A cannot provide antecedent basis for the material from Appendix A that the Applicant is attempting to claim. As such claims 1 and 30 remain indefinite. Furthermore, Appendix A does not teach a matrix but a list form of a matrix; hence it is not clear what the Applicant is attempting to claim. Furthermore Appendix does not provide any description; hence "as described in Appendix A" is not clear what is being stored.

Section 4.1 on page 1418 of Yang teaches that the parity matrix H can be generated using compute code, a coded listing. Such a listing clearly suggest computer readable media for buffering and/or storing. As per the material in Appendix A, no patentable weight is given to the term Appendix A. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang with the teachings of Lu by including use of a wireless transmitter to transmit a wireless signal that includes said code word. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of a wireless transmitter to transmit a wireless signal that includes said code word would have provided improved system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu) and significant capacity gains from antenna array spatial diversity and channel coding (Top of column 2 on page 74 in Lu).

35 U.S.C. 103(a) rejection of claims 2, 16 and 35.



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Abstract in Lu.

35 U.S.C. 103(a) rejection of claims 4, 18 and 37.

Section 4.1 on page 1418 of Yang teaches arbitrary weight  $w$  columns.

35 U.S.C. 103(a) rejection of claims 6 and 36.

The  $H_1^T$  block in Figure 1(a) on page 1420 in Yang clearly suggests a mechanism for storing information about the parity check matrix so that  $H_1^T$  can be used to generate codewords.

35 U.S.C. 103(a) rejection of claims 10, 20 and 38.

The last paragraph on page 1416 of Yang teaches an arbitrary size  $(k, n)$  LDPC codes, which encompasses a particular (1600,2000) code.

2. Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (Michael Yang, Yan Li and William E. Ryan; Design of Efficiently Encodable Moderate-Length High-Rate Irregular LDPC Codes; Proceedings of the Annual Conference on Communication, Control and Computing, October 2, 2002, pages 1415-1424) [hereafter referred to as Yang] and Lu et al. (Ben Lu, Xiaodong Wang, and Krishna R. Narayanan; LDPC-Based Space-Time Coded OFDM Systems Over Correlated Fading Channels: Performance Analysis and Receiver Design; IEEE TRANSACTIONS ON COMMUNICATIONS, VOL. 50, NO. 1, JANUARY 2002, pages

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74-88) [hereafter referred to as Lu] in view of Goldstein; Yuri et al. (US 6862552 B2, hereafter referred to as Goldstein).

35 U.S.C. 103(a) rejection of claims 3 and 21.

Yang and Lu substantially teaches the claimed invention described in claims 1 and 2 (as rejected above).

In addition, Yang and Lu teach a mapper, between said FEC coder and said wireless transmitter, to map said code word based on a predetermined modulation scheme (column 2, page 74 of Lu).

However Yang and Lu do not explicitly teach the specific use of an inverse discrete Fourier transform unit to convert mapped data from a frequency domain representation to a time domain representation.

Goldstein, in an analogous art, teaches use of an inverse discrete Fourier transform unit to convert mapped data from a frequency domain representation to a time domain representation (IFFT 16 in Figure 2 of Goldstein).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang and Lu with the teachings of Goldstein by including use of an inverse discrete Fourier transform unit to convert mapped data from a frequency domain representation to a time domain representation. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of an inverse discrete Fourier transform unit to convert mapped data from a frequency domain

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representation to a time domain representation would have provided signal samples results in the time domain (col. 3, lines 45-50 in Goldstein).

3. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (Michael Yang, Yan Li and William E. Ryan; Design of Efficiently Encodable Moderate-Length High-Rate Irregular LDPC Codes; Proceedings of the Annual Conference on Communication, Control and Computing, October 2, 2002, pages 1415-1424) [hereafter referred to as Yang] and Lu et al. (Ben Lu, Xiaodong Wang, and Krishna R. Narayanan; LDPC-Based Space-Time Coded OFDM Systems Over Correlated Fading Channels: Performance Analysis and Receiver Design; IEEE TRANSACTIONS ON COMMUNICATIONS, VOL. 50, NO. 1, JANUARY 2002, pages 74-88) [hereafter referred to as Lu] in view of Dougherty; Angus O. et al. (US 6831902 B1, hereafter referred to as Dougherty).

35 U.S.C. 103(a) rejection of claims 11-13.

Yang and Lu substantially teaches the claimed invention described in claims 1 and 2 (as rejected above).

However Yang and Lu do not explicitly teach the specific use of wireless network components.

Dougherty, in an analogous art, teaches use of wireless network components (col. 1, lines 5-15 in Dougherty).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang and Lu with the teachings of Dougherty by including use of wireless network components. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of wireless network components would have provided a wide range of services (col. 1, lines 5-15 in Dougherty).

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (Michael Yang, Yan Li and William E. Ryan; Design of Efficiently Encodable Moderate-Length High-Rate Irregular LDPC Codes; Proceedings of the Annual Conference on Communication, Control and Computing, October 2, 2002, pages 1415-1424) [hereafter referred to as Yang] and Lu et al. (Ben Lu, Xiaodong Wang, and Krishna R. Narayanan; LDPC-Based Space-Time Coded OFDM Systems Over Correlated Fading Channels: Performance Analysis and Receiver Design; IEEE TRANSACTIONS ON COMMUNICATIONS, VOL. 50, NO. 1, JANUARY 2002, pages 74-88) [hereafter referred to as Lu] in view of Bordogna; Mark Aldo et al. (US 6683855 B1, hereafter referred to as Bordogna).

35 U.S.C. 103(a) rejection of claim 14.

Yang and Lu substantially teaches the claimed invention described in claims 1 and 2 (as rejected above).

However Yang and Lu do not explicitly teach the specific use of an IC.

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Bordogna, in an analogous art, teaches use of an IC (col. 9, lines 52-54 in Bordogna). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang and Lu with the teachings of Bordogna by including use of an IC. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of an ASIC would have provided flexibility with the added advantage of speed associated with hardware (col. 9, lines 52-54 in Bordogna).

5. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (Michael Yang, Yan Li and William E. Ryan; Design of Efficiently Encodable Moderate-Length High-Rate Irregular LDPC Codes; Proceedings of the Annual Conference on Communication, Control and Computing, October 2, 2002, pages 1415-1424) [hereafter referred to as Yang] in view of Lu et al. (Ben Lu, Xiaodong Wang, and Krishna R. Narayanan; LDPC-Based Space-Time Coded OFDM Systems Over Correlated Fading Channels: Performance Analysis and Receiver Design; IEEE TRANSACTIONS ON COMMUNICATIONS, VOL. 50, NO. 1, JANUARY 2002, pages 74-88) [hereafter referred to as Lu] in further view of Brankovic; Veselin (US 6198460 B1).

35 U.S.C. 103(a) rejection of claim 30.

Yang teaches a forward error correction FEC coder to encode digital data using a low density parity check LDPC code (Figure 1(a) on page 1420 in Yang), said FEC coder

including: a matrix multiplication unit to multiply input data by a transpose of a first portion of a parity check matrix to generate modified data ( $H_1^T$  block in Figure 1(a) on page 1420 in Yang and Equation 4 on page 1418 of Yang); a differential encoder to differentially encode said modified data to generate coded data ( $\frac{1}{1 \oplus D}$  block on page 1420 of Yang; also see last two paragraphs on page 1419 of Yang); and a concatenation unit to concatenate the input data and the coded data to form a code word (Figure 1(a) on page 1420 in Yang teaches that a codeword  $c$  is comprised of the input bits concatenated with the parity bits, which clearly suggests a concatenation unit).

37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. **The use of reference characters is to be considered as having no effect on the scope of the claims**". That is, no patentable weight can be given to references corresponding to elements recited in the detailed description and the drawings. Hence simple recitation of Appendix A cannot provide antecedent basis for the material from Appendix A that the Applicant is attempting to claim. As such claims 1 and 30 remain indefinite. Furthermore, Appendix A does not teach a matrix but a list form of a matrix; hence it is not clear what the Applicant is attempting to claim. Furthermore Appendix does not provide any description; hence "as described in Appendix A" is not clear what is being

stored. Furthermore; While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim. The Examiner asserts that a data structure cannot be used to distinguish an apparatus.

Section 4.1 on page 1418 of Yang teaches that the parity matrix H can be generated using compute code, a coded listing. Such a listing clearly suggest computer readable media for buffering and/or storing. As per the material in Appendix A, no patentable weight is given to the term Appendix A.

However Yang does not explicitly teach the specific use of a wireless transmitter to transmit a wireless signal that includes said code word.

Lu, in an analogous art, teaches use of a wireless transmitter to transmit a wireless signal that includes said code word (Abstract in Lu). Lu teaches that use of LDPC coding for wireless OFDM systems can significantly improve system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu). The Top of column 2 on page 74 in Lu teaches that antenna array spatial diversity and channel coding can provide significant capacity gains in wireless communications.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang with the teachings of Lu by including use of a wireless transmitter to transmit a wireless signal that includes said code word. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of a wireless transmitter to transmit a wireless signal that includes said code word would have provided improved system performance by exploiting both spatial diversity and selective fading diversity (Abstract in Lu) and significant capacity gains from antenna array spatial diversity and channel coding (Top of column 2 on page 74 in Lu). However Yang and Lu do not explicitly teach the specific use of a dipole antenna. Brankovic, in an analogous art, teaches use of a dipole antenna (Abstract in Brankovic). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yang and Lu with the teachings of Brankovic by including use of a dipole antenna. This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that use of a dipole antenna would have provided micro-wave and millimeter-wave transmission capabilities (Abstract in Brankovic).

35 U.S.C. 103(a) rejection of claim 31.

Abstract in Lu.

35 U.S.C. 103(a) rejection of claim 32.



The  $H_1^T$  block in Figure 1(a) on page 1420 in Yang clearly suggests a mechanism for storing information about the parity check matrix so that  $H_1^T$  can be used to generate codewords.

### ***Conclusion***

This is a RCE of applicant's earlier Application No. 10815133. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph D. Torres  
Primary Examiner  
Art Unit 2112

/Joseph D. Torres/  
Primary Examiner, Art Unit 2112